

Lisa and Ronald Browning (the “Brownings”) appeal the trial court’s restitution order to pay livestock boarding fees following their five Class B misdemeanor cruelty to animal¹ convictions. The Brownings claim the Indiana’s restitution statute does not authorize restitution paid to Cass County.

We affirm.

FACTS AND PROCEDURAL HISTORY

The Brownings were each charged with 32 counts of cruelty to an animal and convicted of five counts for their failure to provide adequate nutrition and veterinary care to their horses and cattle. As a result of the Browning’s cruelty, Cass County seized and boarded several of the Brownings’ animals at a significant cost to the county. Only five of the animals seized were attributable to their respective convictions. One of the horses seized and not related to a conviction died of colic.

The trial court ordered that the Brownings each pay a \$2,500 fine and that they together reimburse the county for \$11,800 as restitution equal to the boarding and veterinary costs for the seized animals related to their convictions. The Brownings moved to correct error, but the trial court denied the motion. The Brownings now appeal.

DISCUSSION AND DECISION

The Brownings claim that Indiana law does not provide recovery for the government’s cost of boarding and caring for the seized animals. This court reviews questions of law *de novo*. *Herron v. State*, 729 N.E.2d 1008, 1010 (Ind. Ct. App. 2003). “The primary goal in interpreting the meaning of a statute is to determine and effectuate legislative intent.” *Id.*

¹ See IC 35-46-3-7.

When interpreting a legislative enactment, the words and phrases employed are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown. *Stewart v. City of Indianapolis*, 798 N.E.2d 863, 866 (Ind. Ct. App. 2003).

IC 35-46-3-6 provides in part:

(h) If a person is convicted of an offense [e.g. cruelty to an animal], the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

In *Lykins v. State*, 726 N.E.2d 1265, 1271-72 (Ind. Ct. App. 2000), we held that the trial court did not err in ordering the defendant to pay for the labor and material costs paid by the county to build new stables and cover veterinarian bills following his convictions for cruelty to his horses. *Id.* While this matter varies from the issue presented in *Lykins* in that the Brownings challenge whether Indiana's restitution statute, IC 35-50-5-3,² permits the

² IC 35-50-5-3 provides in pertinent part:

(a) Except as provided in subsection (i) or (j), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the

imposition of restitution in this case, reading the restitution statute in conjunction with the cruelty to animal's penalties statute, IC 35-46-3-6, it is clear the legislature intended those responsible pay for their cruelty. *See Sanders v. State*, 466 N.E.2d 424, 428 (Ind. 1984) (When one statute deals in general terms and another in specific terms, they should be harmonized if possible.). It is equally clear that the Brownings only pay the expenses for those crimes for which they were convicted. *Kinkead v. State*, 791 N.E.2d 243, 245 (Ind. Ct. App. 2003) (absent agreement, trial court may not order restitution in amount greater than what is attributable to the convictions). The trial court had authority to impose restitution to recover Cass County's boarding and veterinary costs.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.

investigation or trial of the crime; and
(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.